

R E M A R K S

Applicant has carefully considered the above identified Office Action, and in response thereto is addressing each issue raised by the examiner in the remarks hereinbelow. In this regard, applicant is canceling without prejudice claims 18 and 19; and amending claims 1, 3, 9, 11, 17 and 20.

Claim Rejection 35 USC 103(a)

Applicant has amended claims 1 and 17 by suspending at least one of a sound emitting device and a light emitting device in substantially a middle of the inflatable casing with at least two wires. Neither the Shishido '200 patent or the Potrzuski et al. '669 patent teach or suggest singularly or in combination the suspending a sound emitting device and/or a light emitting device in substantially a middle of the inflatable casing with at least two wires. Neither the Allen '976 patent or the Yang '589 patent teach or suggest suspending a sound emitting device and/or a light emitting device in substantially a middle of the inflatable casing with at least two wires. Allen teaches forming a tube inside a ball with a complicated, expensive and heavy structure to retain batteries and a light bulb. Yang also teaches forming a molded tube inside a ball with a complicated, expensive and heavy structure to retain batteries and a light bulbs. Secondary considerations, such as failure of others to create a more efficiently manufactured product are proof of nonobviousness according to Graham v. John Deere Co.

In determining obviousness, a court must (1) determine the scope and content of the prior art; (2) ascertain the differences between the prior art and the claimed invention; and (3) resolve the level of ordinary skill in the pertinent art. Secondary considerations such as commercial success, long felt but unsolved need, and failure of others are also considered. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966).

Applicant's suspension of the a sound emitting device and/or a light emitting device in substantially a middle of the inflatable casing between two substantially opposite receptacles with at least two wires is more cost effective and efficient than a large tube. All claims dependent upon a newly allowable base claim are also made allowable.

Applicant has amended claim 9 by retaining the power source in one receptacle; the sound emitting device and sound emitting circuit in the other receptacle; and connecting the power source to the sound emitting circuit with at least two wires. Neither the Shishido '200 patent or the Potrzuski et al. '669 patent teach or suggest singularly or in combination running at least two wires between two substantially opposite receptacles containing a power source and a sound emitting device/sound emitting circuit. Both Shishido and Potrzuski et al. teach retaining the power source and the light or sound emitting device in a single receptacle. Shishido and Potrzuski do not teach separating the power source from the sound emitting device/sound emitting circuit to provide a better weight balance in the ball. All claims dependent upon a newly allowable base claim are also made allowable.

C O N C L U S I O N

It is respectfully submitted that applicant has responded in a fully satisfactory manner to all matters at issue in this application, and this application is now in condition for allowance. In this regard, applicant has made every effort to comply with the requirements set forth in this Office Action as well as statutory requirements. Accordingly, applicant respectfully requests that the Examiner enter this amendment, allow the claims, and pass this application on to issue.

Respectfully submitted,



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